

SEC. 2. That section four hundred and thirty-five of The Code is amended by striking out all after the word "thereupon" in the fourth line from the end of said section and substituting the following: "no execution shall issue upon such judgment during the pendency of said appeal."

Section 435, Code, amended.

No execution to issue on judgment pending appeal, when undertaking given, &c.

SEC. 3. That section nine hundred and sixty two of The Code be amended by adding to the end thereof the following paragraph: "In civil cases, at the first term of the superior court after such certificate is received, if the judgment is affirmed the court below shall direct the execution thereof to proceed, and if said judgment is modified, shall direct its modification and performance. If a new trial is ordered the cause shall stand in its regular order on the docket for trial at such first term after the receipt of the certificate from the supreme court. In criminal cases the clerk of the superior court, in all cases where the judgment has been affirmed, (except where the conviction is a capital felony,) shall forthwith on receipt of the certificate of the opinion of the supreme court notify the sheriff, who shall proceed to execute the sentence which was appealed from. In criminal cases where the judgment is not affirmed the cases shall be placed upon the docket for trial at the first ensuing term of the court after the receipt of such certificate. In all cases of affirmance of a sentence for a capital felony the clerk of the supreme court, at the same time that the decision of the supreme court is certified down to the superior court, shall send a duplicate thereof to the governor, who shall immediately issue his warrant under the great seal of the state to the sheriff of the county in which the appellant was sentenced, directing him to execute the death penalty on a day specified in said warrant, not less than thirty days from the date of said warrant; but this shall not deprive the governor of the power to pardon or reprieve the defendant or to commute the sentence.

Section 962, Code, amended

When judgment is affirmed, execution to be directed at first term after receipt of certificate.

When new trial granted, action to stand for trial at first ensuing term, &c.

In criminal cases (other than capital) when judgment affirmed clerk of superior court to direct sheriff to execute sentence.

When judgment not affirmed, case to stand for trial at first ensuing term.

When sentence in capital felony affirmed, supreme court clerk to send duplicate certificate to governor.

Governor to issue warrant to sheriff to execute death penalty, &c.

Governor not deprived of power to pardon or reprieve.